

C1
Cont sections and no more than four of said connecting sections forming each of said plurality of flares.

Please add the following claims:

C2 --30. The heat exchanging fin according to claim 21, wherein an entire outer edge of each of said plurality of flares has a positive radius of curvature from an axis of a respective of said collars.

31. The heat exchanging fin according to claim 21, wherein each of said plurality of connecting sections is a curved line expanding outwardly.--

REMARKS

Claims 2-6, 8-10 and 21-31 are now present in the application. Claim 24 has been amended and claims 30 and 31 have been added. Claim 21 is independent. Reconsideration of this application, as amended, is respectfully requested.

Improper Finality of Last Office Action

The Examiner has made the Office Action dated December 7, 2000 final. Referring to page 4 of the Examiner's Office Action, the Examiner submits that Applicant's submission of an Information Disclosure Statement under 37 C.F.R. § 1.97(c) with the fee set

forth in 37 C.F.R. § 1.17(p) prompted the new grounds of rejection presented in this Office Action. Applicant respectfully submits that the finality of the last Office Action is improper and should be withdrawn. Specifically, since the Information Disclosure Statement filed on May 10, 1999 did not require a fee under 37 C.F.R. § 1.17(p), the Examiner cannot make a new ground of rejection in view of the newly cited reference if the new ground of rejection was not also necessitated by Amendment. Since the new ground of rejection was not necessitated by Amendment, a final rejection at this time is inappropriate.

The Examiner is directed to MPEP § 609B(2)(A) which states the following:

If information submitted during the period set forth in 37 C.F.R. § 1.97(c) with a statement under 37 C.F.R. § 1.97(e) is used in a new ground of rejection on unamended claims, the next Office action will not be made final since in this situation it is clear that Applicant has submitted the information to the Office promptly after it has become known and the information is being submitted prior to a final determination on patentability by the Office.

In addition, it should be noted that the JP '479 reference relied on by the Examiner was submitted in an Information Disclosure Statement dated May 10, 1999 as well as on March 18, 1999. Accordingly, the Examiner had the relevant reference available before the Office Action dated April 5, 1999.

In view of the above, Applicant respectfully submits that the finality of the last Office Action was improper and should be withdrawn. Withdrawal of the finality of the last Office Action and entry of the above amendments are therefore respectfully requested.

Election/Restriction

Claims 25-26 and 29 stand withdrawn from further consideration by the Examiner under 37 C.F.R. § 1.142(b) as being directed to a non-elected invention. The Examiner once again indicates that the election was made **without traverse** in Paper No. 4. Applicant respectfully submits that this election was **with traverse** as clearly indicated in the Reply to a Restriction Requirement dated January 11, 1999.

In addition, claims 25-26 and 29 depend directly from independent claim 21 which is generic to the present invention. Since independent claim 21 is believed to define over the references relied on by the Examiner, it is respectfully requested that the Examiner now examine claims 25-26 and 29 along with the remaining claims in the application.

Rejection Under 35 U.S.C. §§ 102 and 103

Claims 2, 4-5, 8-9, 21-22, 24 and 27-28 stand rejected under 35 U.S.C. § 102(b) as being anticipated by JP 63-80479. Claims 3, 6,

10 and 23 stand rejected under 35 U.S.C. § 103 as being unpatentable over JP '479 in view of Dinh, U.S. Patent No. 5,582,246. These rejections are respectfully traversed.

The present invention, as exemplified by independent claim 21, is directed to a heat exchanging fin, wherein a combination of elements are provided including a plurality of flares formed at respective front ends of each of the plurality of collars. Each of the plurality of flares includes a plurality of radially extended sections and a plurality of connecting sections. The plurality of radially extended sections radially extend outwardly from front ends of each of the plurality of collars. Furthermore, the plurality of connecting sections connects the adjacent radially extended sections and an outer edge of each of the plurality of connecting sections is formed into a straight line or a curved line expanded outwardly. Applicant respectfully submits that the references relied on by the Examiner are insufficient to teach or suggest the present invention as required by independent claim 21.

With regard to the JP '479 reference, referring to Figure 1 of this reference, it is clear that there are a plurality of radially extended sections and a plurality of connecting sections connecting the radially extended sections; however, an outer edge of each of the plurality of connecting sections is not formed into a straight line or a curved line expanded outwardly as required by independent

claim 21 of the present invention. The connecting sections of the JP '479 reference are curved inwardly toward a center of the collar 2 and not outwardly or in a straight line as required by independent claim 21 of the present invention. Accordingly, the JP '479 reference fails to anticipate independent claim 21 of the present invention.

With regard to dependent claims 2-6, 8-10, 22-24, 27 and 28, Applicant respectfully submits that these claims are allowable due to their dependence upon allowable independent claim 21, as well as for the additional limitations recited in these independent claims.

With regard to the Examiner's rejection of claims 3, 6, 10 and 23, the Examiner relies on the Dinh reference to modify the JP '479 reference to include a triangular shaped outer edge. Applicant respectfully submits that the Dinh reference relied on by the Examiner does not teach an outer edge of each of the plurality of "flares" being formed in the shape of a triangle or a tetragon as required by the above-mentioned claims. Referring to Figure 7 of Dinh, each of the individual radially extended sections are formed into the shape of a triangle; however, eight of these triangles form an outer surface of the flare. Accordingly, the outer surface of the flare is not formed into the shape of a triangle or a tetragon as required by dependent claims 3, 6, 10 and 23.

With regard to dependent claim 24, this claim has been amended to recite that there are "no more than four of said radially extended sections and no more than four of said connecting sections forming each of said plurality of flares." Applicant respectfully submits that this limitation clearly defines over the '479 reference relied on by the Examiner. The '479 reference teaches more than four radially extended sections and therefore fails to teach "no more than" four radially extended sections and "no more than" for connecting sections as required by dependent claim 24.

In view of the above amendments and remarks, Applicant respectfully submits that claims 2-6, 8-10, 21-24, 27 and 28 clearly define the present invention over the references relied on by the Examiner. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. §§ 102 and 103 are respectfully requested.

Additional Claims

Additional claim 30 has been added for the Examiner's consideration. Additional claim 30 recites "wherein an outer edge of each of said plurality of flares has a positive radius of curvature from an axis of a respective of said collars." In view of this, the connecting sections must be a curved line expanded outwardly and cannot be a straight line as currently recited in

independent claim 21. Since the JP '479 reference teaches an outer surface which includes a portion which has a negative radius of curvature from an axis of the collar, this reference is insufficient to teach the subject matter of dependent claim 30. With regard to additional claim 31, this claim requires that the connecting section be formed by a curved line expanding outwardly. Since the connecting section of the JP '479 reference curves inwardly and not outwardly, the JP '479 reference is also insufficient to teach this aspect of the present invention as well.

Favorable consideration and allowance of additional claims 30 and 31 are respectfully requested.

CONCLUSION

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn.

It is believed that a full and complete response has been made to the Office Action, and as such, the present application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Mr. Paul C. Lewis (Reg. No. 43,368) at the

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telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Attached hereto is a marked-up version of the changes made to the application by this Amendment.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By Paul C. Zuni

for James M. Slattery, #28,380

#43,368

P.O. Box 747

Falls Church, VA 22040-0747

(703) 205-8000

JMS/PCL/smm
0038-0294P

Attachment: Version with Markings to Show Changes Made

VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims:

The claims have been amended as follows:

24. (Amended) The heat exchanging fin according to claim 21, wherein there are no more than four of said radially extended sections and no more than four of said connecting sections forming each of said plurality of flares.

Claims 30-31 have been added.